

STATEMENT OF SENATOR HOLLINGS
Hearing on the United-USAirways Merger
June 21, 2000

Good morning. I wish to thank the Chairman for holding this hearing. Many other groups and individuals, including Members, the press and "so-called" experts, have commented on the proposed United-USAirways deal, and now it is our turn.

Let's start with one fact -- deregulation has not given us what we wanted, and it is about to get worse. When we passed the Airline Deregulation Act in 1978, we were promised many things -- low fares, better service, and the absence of predatory conduct, given that planes can easily be moved from one market to another. The government applied those theories to every transaction proposed, and with one exception, approved them all. The result is what we have today -- a balkanization of our aviation system --- major hubs dominated by single carriers. Such concentration will only get worse if we end up with 3 mega-carriers.

My concerns with the proposed merger have less to do with the transaction before us, though it raises serious issues, than the path that we have allowed ourselves to be led down. If we are reduced to three mega-carriers, we will have to consider some form of consumer fare protection. Action may include zones of reasonableness for short-haul, non-stop flights out of the hubs or conditioning all of the deals on divestiture of a substantial percentage of gates at the dominated hubs.

The proposal before us today is controversial because of its scope and because of the industry-wide implications. The folks that will testify, Mr. Goodwin, Mr. Wolf and Mr. Johnson, are all businessmen who will try to convince us on the reasons why the deal -- despite its antitrust issues -- should be approved. Mr. Johnson clearly

wants his turn to lose a fortune in the airline industry, and Mr. Goodwin and Mr. Wolf are more than willing to take his \$144 million. Of course, they want to see Mr. Johnson succeed, or be in a position to succeed, and I know that Mr. Johnson is an independent, driven, and creative executive who wants to succeed. Some, however, have posed the essential question of whether the spinoff really creates an independent company.

DCAir will have planes provided for by United -- at market rates; slots and gates provided by USAirways -- and paid for by Mr. Johnson; DCAir will offer its passengers United's frequent flyer program and provide other backup services. Yet, some will argue that all of this "assistance" from United prevents it from being independent. Mr. Johnson knows that for the spinoff to be successful, DOJ must determine that DCAir is independent. To achieve this status, DCAir must be able to set its own fares -- and hopefully lower than they are today. This is a critical factor.

One thing that we must bear in mind -- DCAir has given us assurances, and we will hear them again today -- that it will continue to serve the 43 communities from Washington that are today served by US AIRWAYS. Service criteria may not be one of the matters DOJ will consider if it finds DCAir too dependent upon the consolidated carrier. Furthermore, DOJ or DOT can impose additional conditions on DCAir, if either determines from an antitrust or other perspective that such measures are necessary, i.e. prohibiting DCAir from code-sharing with United or requiring DCAir to contract with another carrier for frequent flyer miles. One other thing DOJ may want to consider -- giving DCAir the shuttle flights, rather than allowing the United to keep these valuable routes. Giving DCAir these valuable routes may lead to lower fares between Washington and the Northeast.

Let's look at the hub concentration levels. Right now there are 16 hubs where one carrier accounts for more than 50% of the traffic. After the deal is approved, the number will stay the same. This is where the market power resides. For years, we have heard that the potential competition would keep fares low. We were told that carriers would not raise fares in markets such as that between Charleston and Charlotte, because if they did then someone else would bring their planes into the market. However, with the way the industry functions today, that never happens. The home team can raise or lower fares, with little likelihood of competitive entry. US Airways today has almost 90% of the traffic at Charlotte, and the combined carrier would have 91%. While this is not a significant increase, and the transaction transfers power from one entity to another, it still leaves the folks at Charlotte with only one choice in the short-haul, non-stop markets.

According to DOT, the theory was that there was lots of competition in the longer haul markets where hubs compete with another. Flights from non hubs such Columbia, SC to destinations in the Midwest may have 3 or 4 carrier options, each with one stop through a hub. DOT has told us in report after report that deregulation was working -- more people were traveling, and at lower prices. Yet, how does this square with 16 major metropolitan areas being dominated by one service provider. We now have local markets where 40% of the passengers no choices in price or service.

DOJ and DOT also must focus on the number of one-stop markets where competition may be lessened. We know that the consolidated United/US Airways hub flights will have no competition, but will there also be an erosion of competition in other markets? Finally, putting Reagan National Airport aside, at Dulles the combined carrier will have more than 50% of the market, giving United

monopolies on several routes. DOJ must look at Dulles. Who else will go in there? In the recently enacted FAA bill, FAIR-21, we have directed DOT to stop funding these mega-fortresses, unless we have some assurance that the airports will make every effort to provide facilities for other carriers, and thus help address the market power concerns.

With respect to airports, and barriers to entry, we asked GAO to give us information on the ability to get gates at some of the hubs. Gates are there for the taking at some hubs (Pittsburg and Charlotte), but no one wants to challenge the home team. We have heard that it is harder to get gates since the major incumbent may have a say in the use of gates at their respective airports. We have given the DOT the ability to stop that. As I mentioned, they now must exercise the authority to ensure competition.

What else has the government done? Last year, DOJ filed suit against American for its use of hub market power to drive out 3 new entrants at Dallas-Fort Worth. DOT has proposed predatory guidelines, but has yet to issue a final set of guidelines. I know that the proposal was controversial, but it is time to address those concerns and issue the final rules.

In 1998, the Department of Justice challenged the Northwest-Continental deal based on an overlap of mere 7 markets affecting 4 million passengers. DOJ is finally waking up to the fact that we have untoward levels of market power -- which were granted or obtained in the name of efficiency -- which must be checked. This deal before us involves at least 4.9 million passengers in just the hub-to-hub routes of the two carriers, where there will a reduction from 2 carriers to 1, or from 3 to 2, depending upon the market. In many of those routes, there is no likely carrier able

or willing to enter the market. Few times do we see a carrier, be it a low cost carrier or a network carrier, challenge routes connecting two hubs. With the feed traffic at each hub, the combined carrier effectively controls price, service and scheduling. In addition, several cities like Boston and New York will see significant increases in concentration, as will Dulles.

Proponents of the merger contend the merger will benefit the traveling public. The advantages include -- 64 new non-stops, 560 new on-line connections, and 29 new international routes. Yet, both of these carriers rank near the bottom of the DOT on-time list, 7th and 10th. The new carrier will have to coordinate over 1,000 aircraft, and 146,000 employees. If United or US Airways can not provide satisfactory customer service with their current size, how will they coordinate even more passengers and aircraft?

We will be back here next year looking at how best to address competition policy matters. We took the authority away from DOT in 1988, leaving it to our antitrust regulators. Next year, we will need to rethink that position if we are continue to be beset by the types of problems we know exist, and will continue to exist, absent concrete action.

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